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Fifty-eighth session
Agenda item 18 (b)

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS: NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS

Letter dated 24 April 2002 from the head of the delegation of the United Kingdom of Great Britain and Northern Ireland to the fifty-eighth session of the Commission on Human Rights addressed to the Chairperson of the Commission

In response to the report which was distributed on behalf of Professor Dickson on 18 April under item 18 (b), National institutions and regional arrangements, I refer to the statement which I gave him.

I enclose a copy of that statement* and I should be most grateful if it could be part of the record of the meeting and be distributed as a document of the Commission.

(Signed) Andrey GLOVER
Head of Delegation

* Reproduced as received in English only.

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Annex

RESPONSE TO PROFESSOR DICKSON

United Nations Human Rights Commission, 58th Session
April 2002

The Government thanks Professor Dickson for his contribution.

The Government thanks the Commission for its continued vigilance and input in the field of human rights within Northern Ireland. We assure the Commission that we will continue to value their contribution. We welcome the Commission's support for the significant progress that has been made in the protection of human rights in Northern Ireland in recent years.

We note that, among other things, the Commission expresses concern about the dispute at the Holy Cross Girls' Primary School. The Government was equally concerned about the appalling scenes witnessed there, and has worked closely with the new Police Service of Northern Ireland, the Northern Ireland Assembly and local residents from both sides of the community to reach a solution to that dispute.

We note the Commission's concerns over other areas of Government policy such as the cases of Patrick Finucane and others. The Government is aware of the significance of the matter, and along with the Irish Government has committed to appointing a judge of international standing to undertake a thorough investigation of these cases. This commitment was given in the Weston Park agreement of August 2001 between the British and Irish Governments. We would echo the words of the Irish Ambassador in her speech to the Commission on Human Rights of 11 April in which she said, "Both Governments are continuing their efforts to find a judge to undertake this complex but vital task."

The Government welcomes the Northern Ireland Human Rights Commission's support for the Justice (NI) Bill. However, we disagree with Professor Dickson's assertion that the Justice (NI) Bill fails to meet internationally accepted standards on a public prosecutor's duty to give reasons for not pursuing a prosecution.

The rights of <u>all</u> those involved in a case - victim, witness and defendant - must be balanced when a decision is made as to whether or not reasons for non-prosecution can

be given in a particular case. The proper interest of victims and witnesses in their case must be set against other concerns, including damage to the reputation or other injustice to an individual, the danger of infringing upon the presumption of innocence and the risk of jeopardising the safety of individuals. This is why a decision as to whether or not reasons can be given must be made on a case by case basis. Where it is possible to give reasons for non-prosecution, taking into account the factors outlined above, the Director of Public Prosecutions will endeavour to do so. This practice is broadly similar to that used in England and Wales and the Republic of Ireland.

In regard to the handling of young people who have allegedly committed a crime, the Government's Statement of Aims for the Youth Justice System is, we believe, entirely consistent and compatible with the international conventions; for example the UN Convention on the Rights of the Child, Beijing Rules and the Riyadh Guidelines to which the Government is a signatory.

The Commission refers to the twenty-five recommendations that they made to Government to improve the Commission's effectiveness. Detailed consideration is, at present, being given to the recommendations, all of which recommend changes to primary legislation. Given the complex nature of some of the proposals, it is imperative that the report is given very careful consideration. The Government intends to publish its draft response, for wider consultation, in the very near future.

On one important issue, the Government has already made its position clear. It had always been our intention and understanding that the Commission would have the power to intervene as a third party in legal proceedings or be called as a friend of the court ("amicus curiae"). We were pleased to support the Commission's appeal to the House of Lords, challenging the lower courts' ruling that this power was not available to it and have made clear that, if this challenge is unsuccessful, we will bring forward legislation to rectify the position.

On the subject of funding, the Government has responded positively to the Commission's bids for extra funding, increasing the funding available to them last financial year from £750,000 to £1.3 million, an increase of nearly 75%. This demonstrates how seriously Government takes the issue of the proper resourcing of the

Commission. The Government remains committed to considering sympathetically any further bid from the Commission, taking account of other pressures on its resources.